

chapter. Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the North American Free Trade Agreement are contained in part 181 of this chapter.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 79-159, 44 FR 31970, June 4, 1979; T.D. 94-1, 58 FR 69472, Dec. 30, 1993]

Subpart A—Recordkeeping, Inspection, Examination, and Search

SOURCE: T.D. 79-159, 44 FR 31970, June 4, 1979, unless otherwise noted.

§ 162.1 [Reserved]

§ 162.1a Definitions.

When used in §§ 162.1a through 162.1i, the following terms shall have the meaning indicated:

(a) *Records*. “Records” means:

(1) Statements, declarations, books, papers, correspondence, accounts, technical data, automated record storage devices (e.g., magnetic discs and tapes), computer programs necessary to retrieve information in a usable form, and other documents which:

(i) Pertain to any importation, or to the information contained in the documents required by law or regulation under the Tariff Act of 1930, as amended, in connection with the entry of merchandise;

(ii) Are of the type normally kept in the ordinary course of business; and

(iii) Are sufficiently detailed:

(A) To establish the right to make entry,

(B) To establish the correctness of any entry,

(C) To determine the liability of any person for duties and taxes due, or which may be due, the United States,

(D) To determine the liability of any person for fines, penalties, and forfeitures, and

(E) To determine whether the person has complied with the laws and regulations administered by the Customs Service; and

(2) Any other documents required under laws or regulations administered by the Customs Service.

(b) *Third-party recordkeeper*. “Third-party recordkeeper” means any Customs broker, attorney, or accountant.

(c) *Summons*. “Summons” means any summons issued under this subpart which requires either the production of records or the giving of testimony, or both.

(d) *Technical data*. “Technical data” includes records, diagrams, and other data with regard to a business or an engineering or exploration operation, whether conducted inside or outside the United States, and whether on paper, cards, photographs, blueprints, tapes, microfiche, film, or other media.

§ 162.1b Recordkeeping.

(a) *Who must keep records*. Any owner, importer, consignee, or their agent who imports, or knowingly causes to be imported, any merchandise into the Customs territory of the United States, shall make and keep records as defined in § 162.1a(a).

(b) *Domestic transaction excluded*. A person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported and is not required to make and keep records unless:

(1) The terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is not an independent contractor but the agent of the person placing the order); or

(2) Technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of the imported merchandise.

§ 162.1c Record retention period.

Unless a different period of time is provided elsewhere in the chapter with respect to a specific type of record, any record required or made under § 162.1b shall be kept for 5 years from the date of entry of the merchandise.

§ 162.1d Examination of records and witnesses.

(a) *Examination*. During the course of any inquiry or investigation initiated:

(1) To determine the correctness of any entry, the liability of any person